

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TYRELL KNIGHT,)	
)	
Plaintiff,)	4:06cv3065
)	
vs.)	MEMORANDUM AND ORDER
)	
RAYMOND EDELMAN, et al.,)	
)	
Defendant.)	

This matter is before the court on filing no. 21, the Motion to Dismiss filed on behalf of Nebraska Attorney General Jon Bruning, who protests the service of a summons upon him in this case because he has not been named as a defendant in the plaintiff's Complaint or Amended Complaint. Upon review of the record, I believe the motion is based on a misunderstanding. The plaintiff was simply following instructions in the court's Order on Initial Review that to accomplish service of process on state employees in their official capacity, he had to comply with Neb. Rev. Stat. § 25-510.02(1). That statute states in pertinent part: "The State of Nebraska, any state agency ... and any employee of the state ... sued in an official capacity may be served by leaving the summons at the office of the Attorney General ... or by certified mail service addressed to the office of the Attorney General." The plaintiff appropriately served the named defendants (state employees) in their official capacity c/o Attorney General Bruning. At the same time, the Complaint and Amended Complaint clearly indicate that Mr. Bruning himself is not a party to this case.¹ Therefore, filing no. 21 is granted insofar as Mr. Bruning is not a defendant in this case. However, service of process was appropriate.

SO ORDERED.

DATED this 4th day of October, 2006.

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON
Chief District Judge

¹Of course, if the plaintiff wishes to sue Mr. Bruning or any other person not named in the Amended Complaint, he may move for leave to file a second amended complaint.